



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 19, 1998

Mr. Helmut (Hal) Talton
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR98-2759

Dear Mr. Talton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 119921.

The Texas Department of Transportation (the "department") received a request for the following information:

- (1) the appraisal amounts on parcels of land fronting on the present Hwy 67 along the highway improvement project presently initiated (from Keene to Hwy 35)
- (2) the negotiated payments for these parcels of land.

You indicate that the information requested in item two is available in the executed deeds on file at the Johnson County Clerk's office. As you raise no exception to disclosure for information requested in item two, any responsive information the department possesses must be released. Gov't Code § 552.301. As for the responsive appraisal information, you claim that it is excepted from required public disclosure by sections 552.103 and 552.105. We have considered the exceptions you claim and have reviewed the sample documents that you have submitted.¹

¹ In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision

Section 552.105 excepts from disclosure information relating to

- (1) the location of real or personal property for a public purpose prior to public announcement of the project; or
- (2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

Section 552.105 is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. Open Records Decision Nos. 590 (1991), 564 (1990), 357 (1982), 310 (1982). Information excepted under section 552.105 that pertains to such negotiations may be excepted so long as the transaction is not complete. Open Records Decision No. 310 (1982). Because this exception extends to "information pertaining to" the location, appraisals, and purchase price of property, it may protect more than a specific appraisal report prepared for a specific piece of property. Open Records Decision No. 564 at 2 (1990). For example, this office has concluded that appraisal information about parcels of land acquired in advance of others to be acquired for the same project could be withheld where this information would harm the governmental body's negotiating position with respect to the remaining parcels. *Id.*

You advise us that the department is currently negotiating the purchase of several parcels of land along U.S. Highway 67 for roadway improvement. You indicate that negotiations for the purchase of some of the tracts is ongoing and is not yet complete. You argue that if the requested appraisals are released, the department's negotiations in acquiring the remaining properties will be impaired. We have examined the documents submitted to us for review and your arguments. We conclude that the department has made a good faith determination that release of the requested appraisals would damage its negotiating position with respect to the purchase of the remaining properties. Accordingly, the department may withhold the requested appraisals in item one from required public disclosure under section 552.105 of the Government Code until all of the property transactions involved are complete. Open Records Decision No. 564 (1990).

Because we make a determination under section 552.105, we need not address your additional argument against disclosure at this time. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is

Nos. 499 (1988); 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive style with a vertical line at the end of the last name.

Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 119921

Enclosures: Submitted documents

cc: Mr. Al Holman
3510 Pebble Beach Drive
Farmers Branch, Texas 75234
(w/o enclosures)